

**DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENFORCEMENT DIVISION  
FISCAL YEAR 2008 ENFORCEMENT STATUS REPORT  
JULY 1, 2007 through JUNE 30, 2008**

*The Enforcement Division (ENFD) is responsible for the implementation, coordination and tracking of Department of Environmental Quality (DEQ) enforcement activities, and for the investigation and response to spills and citizen complaints that allege impacts to human health and the environment. The Enforcement Division consists of the Complaint Management Section and the Case Management Bureau.*

**I. Complaint Management Statistics**

**Total number of complaint and spill reports received during the report period was 912.**

In an effort to delineate areas of regulatory responsibility for complaints received by the Department, a complaint type is assigned that generally relates to program authority. The Complaint Management Section is responsible for the initial investigation of all complaints to determine their validity and to ensure proper follow-up occurs (if needed). Spills being recorded are typically associated with unauthorized material releases resulting from vehicle accidents, mechanical malfunctions, or human error.

Number of Complaint / Spill Reports by Type (DEQ Program or Environmental Media) & General Group				
Air Quality - Dust	88	Spills (not impacting water)	15.1%	138
Air Quality - Emissions	47	Clandestine Drug Lab		10
Air Quality - Odors	11	Historical Clandestine Drug Lab		2
Air Quality - Open Burning	36	Solid Waste		75
Asbestos	56	Junk Vehicles		43
Indoor Air Quality	0	Septic Pumps		17
Total Air Quality Related	26.1% 238	Sewage		17
Water Quality	106	Septage From Drain Fields Etc		0
Spills (impacting water)	22	Hazardous Waste		17
318 Permit	2	Used Oil		16
Watershed Management (TMDL)	0	Pesticides		5
Release of Chemicals from Tanks *	0	Municipal Waste Water Treatment Systems		4
Release of Chemicals from Pipelines	46	Superfund		2
Suspect Hydrocarbon Release	0	Total Waste Related	22.8%	208
Underground Storage Tank Regulation	10	Abandoned Mines		0
Subdivisions	63	Strip and Underground Mining		1
Animal Feedlot Operation	8	Opencut Gravel Mining		7
Concentrated Animal Feedlot Operations	6	Metal Mines		6
Surface Water (MPDES) Permits	26	Total Mining Related	1.5%	14
Ground Water (MGWPCS) Permits	2	Major Facility Siting Act (MFSA)	0.1%	1
Public Water Supply Systems	12	Other (Outside DEQ Authority)	1.1%	10
Nonpoint Source	0			
Total Water Related	33.2% 303	<b>TOTAL FOR ALL COMPLAINTS</b>		<b>912</b>

\*Note that these are releases reported through ENFD. The Hazardous Waste Site Cleanup Bureau received 42 leak reports directly during this time.

**Status of complaint and spill reports received during reporting period:**

Complaint reports are sent to the ENFD for initial investigation and database entry. Referral occurs when the determination is made that the complaint falls under a specific regulatory authority either within DEQ or an outside agency.

Status of Complaint Spill Reports *	
Active (under investigation by ENFD)	158
Active Referred (to other DEQ program for investigation and follow-up)	75
Active Enforcement Case (complaint that led to a request for enforcement action)	19
Closed (resolved by ENFD)	319
Closed by Program (resolved by other DEQ program)	85
Closed No Violation (ENFD investigation determined no violation occurred)	104
Closed Referred (referred to outside Agency for resolution)	128
Closed Not Enough Information (not enough information was provided or documented to validate)	24
	<b>912</b>

\*Status as of 6/30/07. Please note that the status of complaints and spills can change on a daily basis as work progresses.

## II. Case Management Statistics

The following tables provide various statistics concerning enforcement actions taken by the Department of Environmental Quality from July 1, 2007 through June 30, 2008.

Enforcement Actions Processed by Statute												
	Enforcement Requests			Status of Enforcement Requests*								
	Total Caseload	Cases continuing FY07	Actions requested FY08	Case Development	Demand	In Litigation	BER Appeal	Under Order	Referred Cases	Vacated, Stayed or Suspended	Withdrawn	Closed
Asbestos Control Act	9	9	0	0	0	2	0	2	0	0	0	5
Clean Air Act of Montana	44	26	18	4	5	1	0	11	2	0	0	21
Metal Mine Reclamation Act	4	4	0	0	0	1	0	2	0	0	0	1
Montana Hazardous Waste Act	17	11	6	1	4	1	0	8	0	1	0	2
Montana Solid Waste Management Act	13	10	3	3	0	3	0	6	0	0	0	1
Montana Underground Storage Tank Act	36	21	15	5	1	4	0	16	0	0	0	10
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	4	2	2	1	0	0	0	1	0	0	0	2
Motor Vehicle Recycling & Disposal Laws	15	14	1	1	0	0	0	12	1	0	0	1
Opencut Mining Act	63	58	5	1	0	1	1	26	0	2	0	32
Public Water Supply Laws	256	159	97	27	2	10	0	79	63	4	12	59
Sanitation in Subdivision Laws	9	7	2	0	3	1	0	2	0	1	2	0
Septic Disposal and Licensure Laws	3	3	0	0	0	0	0	2	0	0	0	1
Strip and Underground Mine Reclamation Act	9	6	3	1	0	0	0	4	0	1	0	3
Water Quality Act	40	34	6	4	3	3	1	17	0	1	0	11
Water Treatment Plant Operations	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>522</b>	<b>364</b>	<b>158</b>	<b>48</b>	<b>18</b>	<b>27</b>	<b>2</b>	<b>188</b>	<b>66</b>	<b>10</b>	<b>14</b>	<b>149</b>

\*Status as of 6/30/08. Please note that the status of cases will change as work progresses.

### Case status explanations

**Case Development:** Case is being developed in the Enforcement Division and/or Legal Unit. Activities include: 1) preparation and review of files and evidence; 2) preparation of administrative and judicial enforcement documents; and 3) preparation of penalty calculations.

**Demand:** Defendant and the Department are engaged in administrative settlement negotiations; e.g., a demand letter has been sent to the defendant, the defendant has been requested to consent to a draft administrative order, etc.

**In Litigation:** Defendant and the Department are engaged in pre-complaint settlement negotiations; e.g., the defendant has been requested to stipulate to a draft consent decree, etc.

**BER Appeal:** Defendant has formally requested a hearing with the Board of Environmental Review regarding a Department-issued order.

**Under Order:** Violator is subject to a legally-enforceable administrative or judicial order.

**Referred Case:** Case referred to another agency for case management.

**Vacated:** Case was vacated, either by mutual agreement or by the court, and is closed.

**Stayed:** Case in which the Department refrains from enforcing an administrative order against a violator.

**Suspended:** Case that is discontinued temporarily or permanently, but is not closed.

**Withdrawn:** Enforcement Request was withdrawn before case development began.

**Closed Enforcement Case:** Case is closed. The defendant has satisfied the terms of the settlement agreement or order.

### Analysis of Enforcement Actions by Enforcement Action Type

Statute	2008 Case Load	Enforcement Action Type			
		Admin.	Civil	Criminal	Referred
Asbestos Control Act	9	2	7	0	0
Clean Air Act of Montana	44	33	9	0	2
Metal Mine Reclamation Laws	4	2	2	0	0
Montana Hazardous Waste Act	17	10	7	0	0
Montana Solid Waste Management Act	13	9	4	0	0
Montana Underground Storage Tank Act	36	24	11	0	1
MT Underground Storage Tank Installer and Inspector Licensing and Permitting Act	4	4	0	0	0
Motor Vehicle Recycling and Disposal Laws	15	4	10	0	1
Opencut Mining Act	63	60	3	0	0
Public Water Supply Laws	256	173	19	0	64
Sanitation in Subdivision Laws	9	8	1	0	0
Septic Disposal and Licensure Laws	3	2	1	0	0
Strip and Underground Mine Reclamation Act	9	9	0	0	0
Water Quality Act	40	32	8	0	0
Water Treatment Plant Operations	0	0	0	0	0
TOTAL	522	372	82	0	68

### Penalty Statistics (in dollars)

Statute	Orders w/ Penalties SFY2008	Monetary Settlement Penalties		Monetary Penalties Collected		Penalties Suspended	Suppl. Env. Project
		Admin.	Civil	Admin.	Civil		
Asbestos Control Act	0				\$40,000.00		
Clean Air Act of Montana	13	\$615,367.00		\$743,548.00		\$79,750.00	\$150,775.00
Metal Mine Reclamation Laws	1	\$1,226.00		\$2,351.00			
Montana Hazardous Waste Act	3	\$67,500.00		\$67,500.00			
Montana Solid Waste Management Act	0				\$30,000.00		
Montana Underground Storage Tank Act	13	\$19,134.00	\$10,500.00	\$28,484.00	\$6,500.00	\$81,875.50	
Montana Underground Storage Tank Installer and Inspector Licensing and Permitting Act	1	\$240.00		\$480.00			
Motor Vehicle Recycling and Disposal Laws	3	\$4,325.50	\$47,380.00	\$4,325.50			
Opencut Mining Act	42	\$26,690.00		\$21,844.50			
Public Water Supply Laws	40	\$28,466.50	\$60,500.00	\$50,800.50	\$65,014.00	\$32,829.25	
Sanitation in Subdivision Laws	1	\$1,466.25		\$1,466.25			
Septic Disposal and Licensure Laws	0				\$11,039.50		
Strip & Underground Mine Reclamation Act	2	\$4,930.00		\$13,671.00			
Water Quality Act	8	\$41,825.00		\$38,568.00			
Subtotal*	127	\$811,170.25	\$118,380.00	\$973,038.75	\$152,553.50	\$194,454.75	\$150,775.00
TOTAL		\$929,550.25		\$1,125,592.25		\$194,454.75	\$150,775.00

\* The amount of Penalties Collected does not equal the Settlement Penalties because: 1) penalties were not due before the end of FY2008; 2) penalties are being paid under a payment schedule; 3) portions of penalties have been suspended; 4) the violator has failed to pay the penalty; 5) the violator has appealed the penalty order; or 6) the violator is or may be insolvent. In instances where the violator has not paid a penalty that is owed, the Department is actively pursuing collection.